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8 Attorneys for Plaintiff
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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13) Case No. C08-02012-JW
14	BERNARD LOVE,)
15	Plaintiff,	) APPLICATION FOR
16	vs.	) ADMINISTRATIVE RELIEF RE:
17	BAY AREA CABLEVISION,	) LATE- FILED OPPOSITION TO
18	INC., a California corporation;	) MOTION TO DISMISS;
19	Does 1 through 50, inclusive,) DECLARATION OF COUNSEL
20	Defendants.) Motion Hearing Date: Sept. 8, 2008
21) Time: 9:00 a.m.
22) Ctrm: 8
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27 Plaintiff hereby applies for administrative relief in connection with his late-
28 filed Opposition to the defense motion to dismiss, currently set for hearing on

1 September 8, 2008. Plaintiff's counsel made a calendaring error in setting the due
2 date for filing of the Opposition, and respectfully requests that the Court either
3 consider the late-filed Opposition, or alternatively reset the hearing so that the
4 Opposition may be considered

5 This application is made pursuant to Local Rule 7-11, Fed R. Civ. P. 1 (to
6 "secure the just...determination of every action..."), and is based upon the attached
7 declaration, the pleadings, records and files in this action, and upon such other and
8 further argument as heard by the Court.
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11 DATED: September 4, 2008

12 Law Offices of Anthony E. Bell, Inc.
13 Lichtenfels Pansing & Miller PC

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15 By: /s/ Anthony E. Bell

16 _____
17 Anthony E. Bell
18 Attorneys for Plaintiff
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DECLARATION OF ANTHONY E. BELL

1. I am an attorney admitted to practice in this Court and am attorney of record for Plaintiff herein. I have personal knowledge of the following facts and if called as a witness could and would testify competently thereto.
2. My office is located within the Central District of California and I am generally more accustomed to litigating under Central District Local Rules which, with respect to motions, call for Opposition briefs to be filed 14 days prior to the hearing date.
3. I inadvertently applied the Central District Local Rule to calendar the due date for the Opposition to the defense motion to dismiss in this case, instead of the applicable Northern District Local Rule requiring oppositions to be filed 21 days prior to the hearing date.
4. I first discovered my calendaring error on 8/25/08, when I was electronically served with a "Notice of Non Opposition" filed by the moving party's counsel, just a few minutes before I actually filed the Opposition brief.
5. I attempted to secure a Stipulation pursuant to Local Rule 12 to avoid having to file this Application for Administrative Relief, by sending a letter to defense counsel which is attached hereto as Exhibit 1. As of today I have not received any response to my letter.
6. The defendant has since filed a substantive Reply to the Opposition and it is not apparent to me that there would be any prejudice for the Court to

1 consider the Opposition brief.

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3 7. I apologize for my calendaring error and respectfully request that the Court
4 render its ruling on the Motion to Dismiss on the merits.

5 I declare under penalty of perjury under the laws of the United States that the
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7 foregoing is true and correct. Executed this 4th day of September, 2008 at Los
8 Angeles, CA.

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11 /s/AnthonyE. Bell
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August 26, 2008

Via Fax 949-223-7100

Gregory D. Trimarche, Esq.
Bryan Cave LLP
3161 Michaelson Drive #1500
Irvine CA 92612

Re: Love v Bay Area Cablevision

Dear Mr. Trimarche:

I was very surprised to received the "Notice of Non Opposition" that you filed yesterday. It is clear, being accustomed to Central District rules which provide for oppositions to be filed 14 days before the hearing, that I mis-calendared the due date for the filing of opposition papers to your motion to dismiss. It is unclear, at least to me, why you laid in wait for a full week after the opposition was due and then filed an improper Notice of Non Opposition (Local Rule 7-3(b) only permits the party *against* whom a motion is filed to submit a Non Opposition), instead of picking up the telephone to inquire where the opposition was. Surely you did not expect Plaintiff to consent to the motion. I have previously extended professional courtesies to your office in this case, and it is unfortunate that you apparently did not feel it appropriate to reciprocate.

In any event, the Opposition has now been filed, as you know. This letter is to request that you stipulate to the filing of the late opposition. If not, please provide me with the reasons why not, so that I may comply with the requirements of Local Rule 7-11 in connection with the motion for administrative relief that I would then be forced to file.

Yours truly,



ANTHONY E. BELL

cc: James Scherer, Esq.
Stephanie Blazewicz, Esq.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BERNARD LOVE,	)	Case No. C08-02012-JW
)	
Plaintiff,	)	[Proposed]
)	
vs.	)	ORDER GRANTING APPLICATION
	)	FOR ADMINISTRATIVE RELIEF RE:
	)	LATE- FILED OPPOSITION TO
BAY AREA CABLEVISION,	)	MOTION TO DISMISS;
INC., a California corporation;)	
Does 1 through 50, inclusive,)	
	)	Motion Hearing Date: Sept. 8, 2008
Defendants.	)	Time: 9:00 a.m.
	)	Ctrm: 8

The Court having considered Plaintiff's Application for administrative relief in connection with his late-filed Opposition to the defense motion to dismiss, currently set for hearing on September 8, 2008, and good cause appearing, the Court ORDERS as follows:

The Application is granted. The filing of the late Opposition is excused

1 and the Opposition Brief shall be considered in connection with the Court's ruling
2 on the motion.

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5 DATED:

UNITED STATES DISTRICT JUDGE

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11 Presented By:

12 /s/ Anthony E. Bell

13 Anthony E. Bell

14 Attorney for Plaintiff
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